



[AP32438 – 070121.0425]
PATENT


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s) : Thomas A. SHREINER et al.
Appln. Serial No. : 09/593,785
Filed : June 14, 2000
Entitled : EXPANSION JOINT COVER WITH MODULAR
CENTER PLATE
Group Art Unit : 3635
Examiner : Chi Q. Nguyen

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Box AF, P.O. Box 1450, Alexandria, VA 22313-1450, on

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Box AF

May 3, 2005


David Loretto (Reg. No. 44,374)

RESPONSE TO OFFICE COMMUNICATION MAILED APRIL 4, 2005

Sir:

The enclosed Revised Amended Appeal Brief is submitted in response to the Office Communication mailed on April 4, 2005, in which the Examiner deemed defective the Amended Appeal Brief filed on December 22, 2004, on the sole ground that “applicant does not specify which group of claims stated on page 5 under Grouping of Claims stands or falls together.” Office Comm’n at page 2.

Further to a telephone communication with Examiner Nguyen on April 29, 2005, Applicants submit herewith a single copy of a Revised Amended Appeal Brief, revised at page

two to record the April 4, 2005, Office Communication and April 29, 2005, telephone conversation with the Examiner, and at page five to include the statement that the claims of the sole group of claims on appeal, Group I, stand or fall together.

Applicants wish to express their thanks to the Examiner for providing them with an opportunity to submit the enclosed Revised Amended Appeal Brief.

Respectfully submitted,

Dated: May 3, 2005

By: 

David Loretto
Reg. No. 44,374, for;

Gary M. Butter
Reg. No. 33,841

Attorneys for Applicants/Appellants

BAKER BOTTS L.L.P.
30 Rockefeller Plaza, 44th floor
New York, New York 10112-0228
(212) 408-2500

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Appellant(s) : Thomas A. SHREINER et al. **On Appeal to the Board of
Appeals and Interferences**
Serial No. : 09/593,785 Examiner: Chi Q. Nguyen
Filed : June 14, 2000 Art Unit: 3635
For : EXPANSION JOINT COVER WITH MODULAR CENTER PLATE

**REVISED AMENDED APPEAL
BRIEF**

I hereby certify that this paper is being deposited with the United States
Postal Service as first class mail in an envelope addressed to:

Commissioner for Patents, P.O. Box 1450, Arlington, VA 22313-1450

May 3, 2005

Date of Deposit

David Loretto

Attorney Name

44,374

Registration No.



Signature

May 3, 2005

Date of Signature



[AP32438 - 070121.0425]

TABLE OF CONTENTS

I.	REAL PARTY IN INTEREST	2
II.	RELATED APPEALS AND INTERFERENCES.....	2
III.	STATUS OF CLAIMS	3
IV.	STATUS OF AMENDMENTS	3
V.	SUMMARY OF INVENTION.....	3
VI.	ISSUES ON APPEAL	5
VII.	GROUPING OF CLAIMS.....	5
VIII.	ARGUMENTS.....	5
	1. Prior Art Relied on by the Examiner	5
	2. Relevant Case Law, Rules and Procedure	7
	3. Issue on Appeal.....	8
IX.	CONCLUSION.....	13
	APPENDIX A.....	CL-1-4
	APPENDIX B	CL-5-8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant(s) :	Thomas A. SHREINER et al.	On Appeal to the Board of <u>Appeals and Interferences</u>
Serial No. :	09/593,785	Examiner: Chi Q. Nguyen
Filed :	June 14, 2000	Art Unit: 3635
For :	EXPANSION JOINT COVER WITH MODULAR CENTER PLATE	

AMENDED APPEAL BRIEF

On March 29, 2004, Appellants submitted a Notice of Appeal from the final rejection of claims 1-5, 8, 13, 14-16 and 19 contained in the Final Office Action issued by the U.S. Patent and Trademark Office on December 30, 2003 in the above-identified patent application. On July 29, 2004, Appellants submitted an Appeal Brief and an Amendment After Final, which amended claims 1-5, 8-10, 14-16, 19 and 20, and added claims 21-26.

In the November 16, 2004, Office communication, the Examiner declined to enter the proposed amendment, on the grounds that it raised new issues that would require further consideration and/or search and presented new claims without canceling a corresponding number of finally rejected claims.

On November 30, 2004, the Examiner notified Appellants, by telephone, that the Appeal Brief was non-compliant, because it referenced non-entered claims and failed to provide an acceptable statement of separate patentability, as required under 1.192(c)(7). The Examiner then suggested that Appellants submit a revised and compliant Amended Appeal Brief and Amendment After Final.

On December 16, 2004 Appellants timely submitted, pursuant to 37 C.F.R. §§ 1.1.192(a) and (d), three copies of an Amended Appeal Brief in support of the appeal of the final rejection of pending claims 1-5, 8, 13, 14-16 and 19, and attached to the brief, pursuant to 32 C.F.R. § 1.1.192(c)(9) and MPEP § 1206, Appendices A and B, which contained clean copies of the finally rejected claims, before and after entry of the proposed Amendment After Final, respectively.

In an Office Communication dated April 4, 2005, Appellants were notified that the Amended Appeal Brief filed on December 22, 2004, was defective on the sole ground that “applicant does not specify which group of claims stated on page 5 under Grouping of Claims stand or fall together.” Office Comm’n at page 5. In a telephone communication on April 29, the Examiner instructed Appellants (1) to revise the brief to include the “stand and fall together” language of Section 1.192(c)(7), albeit directed to the single group of claims on appeal, Group I, and (2) to submit only one copy of the revised brief, notwithstanding the triplicate requirement of Section 1.192(a). Appellants are grateful to the Examiner for allowing them this opportunity to submit the present, compliant Revised Amended Appeal Brief.

In compliance with the Examiner’s telephonic instructions of April 29, 2005, Appellants hereby timely submit a single copy of a Revised Amended Appeal Brief. Accordingly, for at least the reasons set forth below, Appellants respectfully submit that the final rejection of pending claims 1-5, 8, 13, 14-16 and 19 should be reversed.

I. REAL PARTY IN INTEREST

The real party in interest is EMEH, Inc. of Lebanon, New Jersey (previously known as Construction Specialties, Inc.). EMEH, Inc. is the assignee of the entire right, title, and interest in the present application.

II. RELATED APPEALS AND INTERFERENCES

Appellants and the Appellants' legal representatives are unaware of any appeals or interferences related to the present application which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-5, 8, 13, 14-16 and 19 stand finally rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,911,662 to Hallsten (the "Hallsten Patent"). Appellants appeal from this final rejection of pending claims 1-5, 8, 13, 14-16 and 19. Claims 9, 10 and 20 stand objected to as being dependent upon a rejected claims, but would be allowable if rewritten in independent form to include all limitations of the base claim and any intervening claim. The amendments to and addition of certain claims is described in the section below. A copy of all of the pending claims is attached hereto in the Appendix.

IV. STATUS OF AMENDMENTS

Subsequent to the issuance of the Final Office Action dated July 11, 2003, Appellants are filing contemporaneously herewith an Amendment after Final Office Action. In this Amendment, claims 1-5, 8-10, 14-16, 19 and 20 have been amended to provide these claims

in better form for consideration, and not for any reason relating to patentability or to introduce any new matter that would require the Examiner to perform another search.

V. SUMMARY OF INVENTION

Generally, the invention described in the above-identified application is directed to an arrangement that bridges the expansion gap, and more particularly to an expansion joint cover which includes a plurality of frame members. (*See* Appellants' specification, *e.g.*, Abstract).

The joint cover includes a pair of frames 10 and 12, one of which is installed in a recess 14 in a building member 16 on one side of an expansion gap 18 and the other 12 of which is installed in a recess 20 in another building member 22 on the other side of the expansion gap 18. The frames 10 and 12 may be longitudinally continuous along the length of the gap 18, and can be aluminum extrusions of uniform cross-section along their lengths. The same cross-section may be used on both sides of the joint, one being reversed end to end with respect to the other. Each frame 10 can have a planar support portion 10a, an edge portion 10b that overhangs the gap 18, and an edge flange portion 10c at the edge of the support portion remote from the gap. Ribs 10d on its underside provide a standoff of the support portion from the bottoms of the recesses in the building members to facilitate accommodation of the frames to surface irregularities. The frames are secured to the building members by masonry anchors 24. (*See id.*, page 10, line 11 to page 12, line 5).

In particular, a cover 126/128 has a center plate 126 which is modular, in that it includes several separate formed members 126-1, 126-2, 126-3, ... 126-n, each of which is, *e.g.*, rectangular in plan and of uniform cross section along its length. Each formed member 126-1,

126-2, 126-3, ... 126-n may have a planar web portion 126w, which provides a flat upper surface for a floor-covering material, and spaced-apart ribs 126r of inverted "T"-shape in cross-section. A groove 126g along one side edge and a flange or tongue 126t along the other side edge of each member 126 can mate to form a slip joint between adjacent pairs of formed members 126 when the modular center plate is assembled. (*See id.*, page 14, lines 9-23; and Figs. 2-4).

The cover 126/128 may have end frame members 126 that are coextensive with and joined to the end edges of the side-by-side formed members 128. The cover is supported on the frames 10 by a base leg portion 128bl of each end frame member. A pair of flanges form a groove 128g that receives an end lug of the gasket 60. (*See id.*, page 14, line 24 to page 15, line 3).

VI. ISSUES ON APPEAL

The issue on appeal is whether the Examiner failed to establish a *prima facie* case that claims 1-5, 8, 13, 14-16 and 19, which stand finally rejected under 35 U.S.C. § 102(b), are anticipated by the Hallsten Patent.

VII. GROUPING OF CLAIMS

Group I Claims 1-5, 8, 13, 14-16 and 19 (pending)

The claims of Group I stand or fall together.

VIII. ARGUMENTS

1. Prior Art Relied on by the Examiner

The Examiner relies on the Hallsten Patent in his final rejections.

The Hallsten Patent relates to a modular cover for a tank. (*See* Hallsten Patent, column 1, lines 11-14). The cover 30 of the Hallsten Patent cover does not include a pair of frames “adapted to be secured to a building member.” The cover 30 includes a plurality of generally rectangular panels 32 arranged side-by-side to form the cover. The adjacent panels 32 are connected together by adjacent cross members 34. The panels are connected to the cross members by a special form of sealable connection which is discussed in detail below. The panels 32 are constructed from a plurality of planks 36 arranged edge-to-edge and aligned along the length of the cover. Side members 38 are located along the edges of panels 32 extending across the width of all of the planks in the panel. Each of the side members 38 includes means for receiving the ends of the planks, such that the planks may be supported by the side members solely at their ends. The side members 38 also include interconnecting means for connecting them, and thus the panels, to cross members 34, in such a way that a connection between a panel and a cross member may be substantially gas-tight. (*See id.*, column 5, line 66 to column 6, lines 19).

The transverse support members 34 are preformed such that planks 36 are supported entirely at their ends by side members 38, which in turn are connected to cross members 34. The weight of an assembled cover is carried essentially entirely by the support members. The panels 32 may be constructed in such a way that they are substantially gas-tight, but may be sufficiently flexible that they are free to assume the form of a section of an arch or a dome. Arches and domes are preferred shapes for a cover. (*See id.*, column 6, lines 20-31).

As shown in FIGS. 3A and 3B of the Hallsten Patent, the planks 36 (which are formed from extruded aluminum) are provided with a tongue-and-groove arrangement for connecting them together. In particular, the planks 36 include a flat, or deck portion 48 having

along one edge thereof an outwardly extending protrusion or tongue 50 and along the other edge thereof an outwardly extending groove 52. Downwardly extending stiffening portions 56 impart a predetermined structural rigidity to the plank. The planks are assembled together edge-to-edge by inserting tongue 50 in groove 52, without welds. The tongue 50 and groove 52 provide a firm, substantially gas-tight connection between planks 36, while providing a joint with sufficient flexibility that a multiplicity of the planks forming a panel is free to assume a slightly curved form. (*See id.*, column 6, lines 46-61). In addition side members 38 include a channel 74 for receiving ends 36A of the planks 36. (*See id.*, column 7, lines 38-39).

A rubber-like edge seal 368, also serving as a structural supporting member for a deck assembly, is configured to slide together with the outer side of the side member 372 as shown in FIG. 27 of the Hallsten Patent. The side member 372 is similar to the side members 38 described above, especially in receiving the ends of the planks 36, between upper and lower flanges 376 and 378. The principal difference is in the generally keyhole shaped opening 380 at the lower, outer side of this member, which is shaped essentially rectangularity. (*See id.*, column 13, line 63 to column 14, line 6).

2. Relevant Case Law, Rules and Procedures

a. 35 U.S.C. § 102 Case Law

In order to render a claim anticipated under 35 U.S.C. § 102, a single prior art reference must disclose each and every element of the claim in exactly the same way. *See Lindeman Maschinenfabrik v. Am Hoist and Derrick*, 730 F.2d 1452, 1458 (Fed. Cir. 1984), emphasis added; *see Tights, Inc. v. Acme-McCrary Corp.*, 541 F.2d 1047, 191

U.S.P.Q. 305 (4th Cir. 1976); *see also Shanklin Corp. v. Springfield Photo Mount Co.*, 521 F.2d 609, 187 U.S.P.Q. 129 (1st Cir. 1975).

"A prior art publication cannot be modified by the knowledge of those skilled in the art for purposes of anticipation." *In re Saunders*, 444 F.2d 599, 602-03, 170 U.S.P.Q. 213 (C.C.P.A. 1971); *see also Studiengesellschaft Kohle mbH v. Dart Indus.*, 549 F.Supp. 716, 216 U.S.P.Q. 381 (D. Del. 1982), *aff'd* 726 F.2d 724, 220 U.S.P.Q. 841 (Fed. Cir. 1984). It must be "clear that the missing descriptive matter is necessarily present in the ... reference." *See Acromed Corp. v. Sofamor Danek Group, Inc.*, 253 F.3d 1371, 1383 (Fed. Cir. 2001), *citing Continental Can Co. USA Inc. v. Monsanto Co.*, 948 F.2d 1264, 1268-69, 20 U.S.P.Q.2d 1746, 1749 (Fed. Cir. 1991).

3. Issue on Appeal

Claims 1-5, 8, 13, 14-16 and 19 stand finally rejected under 35 U.S.C. § 102(b) as being anticipated by the Hallsten Patent. Appellants respectfully request that the Board reverse this rejection for at least the following reasons.

Appellants respectfully assert that the Hallsten Patent, fails to teach or suggest, much less disclose Appellants' invention, as recited in independent claims 1 and 13.

Appellants' invention, as recited in independent claim 1, relates to an expansion joint cover which comprises, *inter alia*,

a pair of elongated frames, one of which is adapted to be secured in the lengthwise direction thereof to a building member extending along one side of an expansion gap and the other of which is adapted to be secured in the lengthwise direction thereof to another building member extending along the

other side of the expansion gap, and each of which frames has an elongated planar support surface extending along the expansion gap, and

an elongated cover that is adapted to span the expansion gap and is supported on the planar support surfaces of the respective frames for sliding movement of the frames relative to the cover in a direction transverse to the expansion gap

Independent claim 13 recites similar subject matter.

In clear contrast to Appellants' invention, the Hallsten Patent in no way discloses an expansion joint cover that includes, *inter alia*, **a pair of elongated frames, one of which is adapted to be secured in the lengthwise direction thereof to a building member extending along one side of an expansion gap and the other of which is adapted to be secured in the lengthwise direction thereof to another building member extending along the other side of the expansion gap**, as explicitly recited in independent claims 1 and 14. In clear contrast, the Hallsten Patent is explicitly directed towards a cover for an open-topped tank or other enclosure. (See Hallsten Patent, column 1, lines 57-59). Thus, such cover does not include a pair of frames which are “**adapted to be secured to a building member.**” Indeed, the cover of the Hallsten Patent is only secured to a tank or another enclosure, but not to a building member.

Further, contrary to Appellants' claimed invention, the transverse support members 34 of the Hallsten Patent (allegedly equated by the Examiner to Appellants' claimed frames) are not located on different sides of the “**expansion gap.**” Indeed, the Hallsten Patent does not even mention, much less disclose the presence of any expansion gap, and explicitly teaches a cover for an open tank, i.e., a cover for an open-topped structure. Thus, the Hallsten Patent does not disclose the claimed recitation that one building member extends along one side of the expansion gap, and another building member extends along another side of the expansion gap. For example, the specification of the present application describes that an expansion gap

may refer to a distance that the building members are spaced from each other, and states that "[t]he wider the expansion gap at the maximum excursion of the building members away from each other in an earthquake, the thicker the cover plate must be for a given load-carrying ability." (See, e.g., Appellants' specification, page 2, lines 16-19).

In the Final Office Action, the Examiner apparently does not give patentable weight to these recitations because "the limitation of the building member is not positively claimed; [and] the frame members 34 taught by Hallsten having supporting surfaces as noted by U and L and it is capable to cover an expansion joint." (See Final Office Action, page 3, last paragraph). Appellants respectfully disagree for at least the following reasons. First, the Examiner apparently fails to appreciate that each of the frames are structurally different from the transverse support members 34 of the Hallsten Patent (allegedly equated by the Examiner to Appellants' claimed frames) **are not adapted to be secured to a building member**, as explicitly recited in independent claims 1 and 13 of the above-referenced application. In contrast, the members 34 of the Hallsten Patent are *only adapted (or structured) to be secured to an open-top tank or another enclosure*. Indeed, Appellants' independent claims 1 and 13 clearly recite appropriate structure of the claimed members, and thus must be afforded patentable weight. Thus, the Hallsten Patent fails to disclose at least such claimed features of the frames as recited in independent claims 1 and 13.

It follows that one the members 34 of the Hallsten Patent is not specifically adapted (or structured) to be secured to a building member, and another one of the members 34 is not specifically adapted (or structured) to be secured to another building member, as also recited in independent claims 1 and 13. Second, it is respectfully asserted that no term of the claim can be ignored for determining whether the Hallsten Patent discloses *each and every recitation* of the

claimed invention. Thus, even if the building members provided in independent claims 1 and 13 may not be positively recited, the interaction between the claimed frames and the claimed building members must be also considered and described in the Hallsten Patent in order for the Examiner to satisfy his burden of proof that the Hallsten Patent discloses each and every feature of the claimed invention.

Therefore, Appellants respectfully assert that the Hallsten Patent does not disclose **“a pair of elongated frames, one of which is adapted to be secured . . . to a building member extending along one side of an expansion gap and the other of which is adapted to be secured . . . to another building member extending along the other side of the expansion gap,”** as recited in independent claims 1 and 13.

In addition, independent claims 1 and 13 also recite that the frames are adapted to be secured in **the lengthwise direction thereof to respective building members**. In clear contrast, the elongated support members 34 of the Hallsten Patent (equated by the Examiner to Appellants' claimed frames) extend transversely across the open top of the tank (as shown in Figs. 1 and 2 of the Hallsten Patent), but not lengthwise along the sides of a gap as recited in independent claims 1 and 13. Again, the Examiner does not give patentable weight to this limitation. Appellants' claimed frames are *adapted to be secured to the respective building members*, and thus structured to be secured in the lengthwise direction of such building members. The Hallsten Patent does not disclose such features, and they cannot be ignored by the Examiner for at least the same reasons as provided herein above.

Independent claims 1 and 13 further recite that **an elongated cover is supported on an elongated planar support surfaces of the respective frames for sliding movement of the frames relative to the cover in a direction transverse to the expansion gap**. Indeed, the

Hallsten Patent does not have any “elongated planar supporting surfaces” of the members 34 for supporting the planks 36 (apparently equated by the Examiner to Appellants' claimed surfaces) for sliding movement transverse to the support member 34. In particular, Figs. 4A and 4B of the Hallsten Patent disclose that the ends of the planks 36 are received at their ends in channels 74 of the side members 38 attached to the frame members 34. However, there is no disclosure in the Hallsten Patent that the planks 36 are slidably supported on the side members 38. On the contrary, the disclosure of the Hallsten Patent provides that the frame members 34 and the planks 36 are to be joined together in “a gas tight” manner. (*See* Hallsten Patent, column 7, lines 38-43).

Accordingly, at least for the reasons presented above, it is respectfully asserted that the Hallsten Patent does not disclose Appellants' invention as recited in independent claims 1 and 13 of the above-identified application. In addition, 1-5, 8 and 13, which depend from independent claim 1, and claims 14-16 and 19 which depend from independent claim 13 are also not disclosed by the Hallsten Patent for at least the same reasons discussed above.

Therefore, Appellants respectfully request the Board to reverse the Examiner's § 102(b) rejection of claims 1-5, 8, 13, 14-16 and 19.

IX. CONCLUSION

For at least the reasons indicated above, Appellants respectfully submit that the invention recited in the claims of the present application, as discussed above, is new, non-obvious and useful. Reversal of the Examiner's rejections of the claims is therefore respectfully requested.

Respectfully submitted,

Dated: May 3, 2005

By: _____

David Loretto
Patent Office Re. No. 44, 374, for

Gary M. Butter
Patent Office Reg. No. 33,841

Attorneys for Appellants
Baker Botts L.L.P.
30 Rockefeller Plaza
New York, NY 10112
Telephone: (212) 408-2522

APPENDIX A

Claims, as finally rejected:

1. An expansion joint cover comprising:

a pair of elongated frames, one of which is adapted to be secured in the lengthwise direction thereof to a building member extending along one side of an expansion gap and the other of which is adapted to be secured in the lengthwise direction thereof to another building member extending along the other side of the expansion gap, and each of which frames has an elongated planar support surface extending along the expansion gap, and

an elongated cover that is adapted to span the expansion gap and is supported on the planar support surfaces of the respective frames for sliding movement of the frames relative to the cover in a direction transverse to the expansion gap,

wherein the cover includes a modular center plate made up of a plurality of formed members, each formed member being rectangular in plan and of uniform cross-section along an axis in the transverse direction thereof and having side edges parallel to the axis, and the formed members being arranged with their side edges adjacent each other and with their ends overlying the planar support surfaces of the frame members for said sliding movement relative thereto.

2. The improvement according to claim 1, wherein adjacent pairs of formed members are coupled together by joints between the side edges.

3. The improvement according to claim 1, wherein adjacent pairs of formed members are coupled together by slip joints between the side edges.

4. The improvement according to claim 1, wherein all of the formed members of the modular center plate are of the same cross-section.

5. The improvement according to claim 1, wherein the modular center plate includes a continuous edge frame member affixed to each end of the plurality of formed members.

8. The improvement according to claim 1, wherein each of the formed members has corrugations.

9. The improvement according to claim 1, wherein each of the formed members has a plurality of transversely spaced-apart planar upper web portions, a plurality of transversely spaced-apart planar lower web portions staggered between the upper web portions, and a rib portion joining each edge of each upper web portion to an edge of each lower web portion.

10. The improvement according to claim 9, wherein the upper web portions of all of the formed members are coplanar and the lower web portions of all of the formed members are coplanar.

13. An expansion joint cover comprising:

a pair of elongated frames, one of which is adapted to be secured in the lengthwise direction thereof to a building member extending along one side of an expansion gap and the other of which is adapted to be secured in the lengthwise direction thereof to another building member extending along the other side of the expansion gap, and each of which frames has an elongated planar support surface extending along the expansion gap, and

an elongated cover that is adapted to span the expansion gap and is supported on the planar support surfaces of the respective frames for sliding movement of the frames relative to the cover in a direction transverse to the expansion gap,

wherein the cover includes a modular center plate that is made up of a plurality of identical formed members, each formed member being rectangular in plan and of uniform cross-section along an axis in the transverse direction thereof and having side edges parallel to the axis and the formed members being arranged with their side edges adjacent each other and with their ends overlying the planar support surfaces of the frames for said sliding movement relative thereto, and a continuous end frame member affixed to each end of the plurality of formed members.

14. The improvement according to claim 13, wherein each end frame member includes spaced-apart upper and lower flanges forming a groove and the formed members are affixed to the end frame members by reception of end portions thereof in the grooves.

15. The improvement according to claim 14, wherein each end of the modular center plate is supported on the support surface of the frame member by the lower flange of the end frame member.

16. The improvement according to claim 13, wherein each end of the modular center plate is supported on the support surface of the frame member by a rod of a rigid low friction polymeric material received in a partially open socket in the end frame member.

19. The improvement according to claim 13, wherein each of the formed members is corrugated.

20. The improvement according to claim 13, wherein each of the formed members has a plurality of transversely spaced-apart planar upper web portions, a plurality of transversely spaced-apart planar lower web portions staggered between the upper web portions, and a rib portion joining each edge of each upper web portion to an edge of each lower web portion.

APPENDIX B

Claims, after entry of proposed Amendment After Final:

1. An expansion joint cover comprising:

a pair of elongated frames, one of which is adapted to be secured in the lengthwise direction thereof to a building member extending along one side of an expansion gap and the other of which is adapted to be secured in the lengthwise direction thereof to another building member extending along the other side of the expansion gap, and each of which frames has an elongated planar support surface extending along the expansion gap, and

an elongated cover that is adapted to span the expansion gap and is supported on the planar support surfaces of the respective frames for sliding movement of the frames relative to the cover in a direction transverse to the expansion gap,

wherein the cover includes a modular center plate made up of a plurality of formed members, each formed member being rectangular in plan and of uniform cross-section along an axis in the transverse direction thereof and having side edges parallel to the axis, and the formed members being arranged with their side edges adjacent each other and with their ends overlying the planar support surfaces of the frames for said sliding movement relative thereto.

2. The expansion joint cover according to claim 1, wherein adjacent pairs of formed members are coupled together by joints between the side edges.

3. The expansion joint cover according to claim 1, wherein adjacent pairs of formed members are coupled together by slip joints between the side edges.

4. The expansion joint cover according to claim 1, wherein all of the formed members of the modular center plate are of the same cross-section.

5. The expansion joint cover according to claim 1, wherein the modular center plate includes a continuous edge frame member affixed to each end of the plurality of formed members.

8. The expansion joint cover according to claim 1, wherein each of the formed members has corrugations.

9. The expansion joint cover according to claim 1, wherein each of the formed members has a plurality of transversely spaced-apart planar upper web portions, a plurality of transversely spaced-apart planar lower web portions staggered between the upper web portions, and a rib portion joining each edge of each upper web portion to an edge of each lower web portion.

10. The expansion joint cover according to claim 9, wherein the upper web portions of all of the formed members are coplanar and the lower web portions of all of the formed members are coplanar.

13. An expansion joint cover comprising:

a pair of elongated frames, one of which is adapted to be secured in the lengthwise direction thereof to a building member extending along one side of an expansion gap and the other of which is adapted to be secured in the lengthwise direction thereof to another building member extending along the other side of the expansion gap, and each of which frames has an elongated planar support surface extending along the expansion gap, and

an elongated cover that is adapted to span the expansion gap and is supported on the planar support surfaces of the respective frames for sliding movement of the frames relative to the cover in a direction transverse to the expansion gap,

wherein the cover includes a modular center plate that is made up of a plurality of identical formed members, each formed member being rectangular in plan and of uniform cross-section along an axis in the transverse direction thereof and having side edges parallel to the axis and the formed members being arranged with their side edges adjacent each other and with their ends overlying the planar support surfaces of the frames for said sliding movement relative thereto, and a continuous end frame member affixed to each end of the plurality of formed members.

14. The expansion joint cover according to claim 13, wherein each end frame member includes spaced-apart upper and lower flanges forming a groove and the formed members are affixed to the end frame members by reception of end portions thereof in the grooves.

15. The expansion joint cover according to claim 14, wherein each end of the modular center plate is supported on the support surface of the frame member by the lower flange of the end frame member.


16. The expansion joint cover according to claim 13, wherein each end of the modular center plate is supported on the support surface of the frame member by a rod of a rigid low friction polymeric material received in a partially open socket in the end frame member.

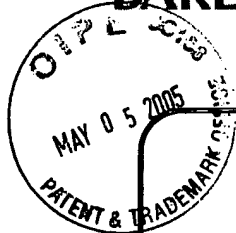
19. The expansion joint cover according to claim 13, wherein each of the formed members is corrugated.

20. The expansion joint cover according to claim 13, wherein each of the formed members has a plurality of transversely spaced-apart planar upper web portions, a plurality of transversely spaced-apart planar lower web portions staggered between the upper web portions, and a rib portion joining each edge of each upper web portion to an edge of each lower web portion.

AP1 EDW
3635

BAKER BOTTS LLP

Please type a plus sign (+) inside this box → 



TRANSMITTAL FORM


(to be used for all correspondence after initial filing)

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/593,785
	Filing Date	June 14, 2000
	First Named Inventor	Thomas A. Shreiner
	Group Art Unit	3635
	Examiner Name	Chi Q. Nguyen
Total Number of Pages in This Submission	Attorney Docket Number	AP32438 070121.0425

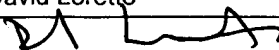
ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input checked="" type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks <input type="checkbox"/>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	BakerBotts LLP 30 Rockefeller Plaza New York, NY 10112	
Signature		Att Name: David Loretto PTO Reg: 44,374
Date	May 3, 2005	

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on this date: May 3, 2005			
Typed or printed name	David Loretto		
Signature		Date	May 3, 2005

Title: EXPANSION JOINT COVER WITH MODULAR CENTER PLATE

Use Space Below for Additional Information:

BAKER BOTTS LLP

MAY 05 2005

FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 0

Complete if Known

Application Number 09/593,785
Filing Date June 14, 2000
First Named Inventor Thomas A. Shreiner
Examiner Name Chi Q. Nguyen
Art Unit 3635
Attorney Docket No. AP32438 070121.0425

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit
Account
Number
Deposit
Account
Name

02-4377

Baker Botts LLP

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments

☒ Charge any additional fee required under 37CFR 1.16 and 1.17

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$ 0

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims - 20 = X = 0
Independent Claims - 3 = X = 0
Multiple Dependent =

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ 0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 0

SUBMITTED BY

Name (Print/Type)

David Loretto

Registration No.
(Attorney/Agent)

44,374

(Complete (if applicable))

Telephone 212.408.2584

Signature



Date

May 3, 2005